

REMARKS

Initially, Applicant wish to thank the Examiner for the detailed Office Action and for the Notice of References cited therein. In addition, Applicants would also like to thank the Examiner for indicating acceptance of the Drawings in the outstanding Office Action. Applicants would also like to thank the Examiner for indicating consideration of each of the documents listed on the Form PTO-1449 submitted with the Information Disclosure Statement filed on June 12, 2007.

In the Office Action, the specification stands objected-to for containing an embedded hyperlinks. Claim 12 stands objected to for being dependent on claim 13. Claims 1-16 stand rejected under 35 U.S.C. §112, second paragraph as being indefinite. Claims 1-16 stand rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter. Claims 1-21 stand rejected under 35 U.S.C. §102(e) as being anticipated by BASANI (U.S. Patent No. 6,718,361).

Upon entry of the present amendment, claims 1-21 will have been cancelled without prejudice to or disclaimer of the subject matter recited therein. Claims 22-42 will have been added for consideration by the Examiner. In this regard, claims 22-42 recite combinations of features similar to the combinations of features recited in originally submitted claims 1-21. However, claims 22-42 have been revised to eliminate informalities and to clarify the nature of the features recited therein. Dependent claim 33, which corresponds to now-cancelled dependent claim 12, appropriately depends from claim 32. Accordingly, Applicants respectfully submit that the Examiner's objection to dependent claim 12 is rendered moot. The cancellation of claims 1-21 and the submission of new claims 22-42 should not be considered an indication of Applicants' acquiescence to any of the outstanding objection or rejections. Rather, Applicants

have cancelled claims 1-21 and submitted new claims 22-42 to advance the prosecution and to obtain an early allowance of the present application.

Also upon entry of the present amendment, the specification at the paragraph beginning on page 3, line 18 and ending on page 4, line 5 and the paragraph beginning on page 4, line 6 and ending on page 4, line 24 will have been revised to delete reference delete reference to embedded hyperlinks. Further, the above-noted paragraphs will have been amended to address minor grammatical informalities. Accordingly, reconsideration and withdrawal of the objection to the specification is respectfully requested.

Applicants respectfully traverse the rejection of claims 1-16 under 35 U.S.C. §112, second paragraph and the rejection of claims 1-16 under 35 U.S.C. §101. Applicants submit that the cancellation of claims 1-16 renders moot the rejection under 35 U.S.C. §112, second paragraph and the rejection under 35 U.S.C. §101. However, Applicants traverse the 35 U.S.C. §112, second paragraph rejection and 35 U.S.C. §101 rejection insofar as they may apply to corresponding pending independent claim 22 and pending dependent claims 23-37. In this regard, the Examiner asserts that a system or an apparatus claim should always claim the structure or the hardware that performs the function and further asserts that Applicants' claimed limitations consist of modules that do not describe the structure of the device. Applicants submit that the previously claimed limitation "a rule injection module to inject or remove Rule Specification to or from the rule engine module" has been replaced with ---a rule injector that injects or removes a rule specification to or from the rule engine---. Further, upon entry of the present amendment, the claimed network control framework apparatus recites, *inter alia*, a gateway, a rule engine, a rule injector, a distributor, a parser, an identifier and a retriever, each of

which are submitted to form the structure of the apparatus. Accordingly, the Examiner's rejection of claims 1-16 under 35 U.S.C. §112, second paragraph is addressed.

With regard to the 35 U.S.C. §101 rejection of claims 1-16, *In re Bilski* clarified the standards applicable to determining whether a claimed method constitutes a statutory "process" under 35 U.S.C. §101. If one were to apply the "machine-or-transformation test" clarified in *In re Bilski*, the proper inquiry to determine patent eligibility of a patent claim is whether the claimed *method* is (1) tied to a particular machine or apparatus, or (2) transforms a particular article to a different state or thing. However, independent claim 22 and dependent claims 23-37 recite a network control framework apparatus and not a method, to which the test set forth in *In re Bilski* is applicable. In fact, Applicants respectfully submit that the Examiner acknowledges that Applicants' claims are directed to an apparatus insofar as the Examiner asserts that Applicants' claimed limitations consist of modules that do not describe the structure of the device (see pages 2-3 of the Office Action dated April 3, 2009). Accordingly, the 35 U.S.C. §101 rejection of Applicants' independent claim 22 and dependent claims 23-37 is submitted to be improper.

Even if the network control framework apparatus of independent claim 22 were to fall under the ambit of the test set forth in *In re Bilski*, Applicants respectfully submit that the features recited in independent claim 22 as well as dependent claims 23-37 satisfy at least one of prongs (1) and (2) of the test set forth in *In re Bilski*. That is, each of the claimed intermediate network element and the claimed gateway is a tangible, physical apparatus, and Applicants' independent claim 22 would thus satisfy prong (1) of the test set forth in *In re Bilski* even if the claim were somehow construed as a method rather than an apparatus. For example, the claimed intermediate network element is disclosed at page 6, lines 16-23 of the specification as filed as

comprising the functional architecture illustrated in Figure 1 and as being a server, router, or intelligent hub, each of which are physical apparatuses satisfying the test enumerated in *In Re Bilski*. Further, the claimed gateway (module) recited in Applicants' independent claim 22 is described on page 10, lines 1-2 of the specification as filed as being a collection of functional blocks that implement gateway or proxy functionalities. Each of dependent claims 23-27 are submitted to be allowable at least for depending from Applicants' independent claim 22, which Applicants submit has been shown to be allowable.

In view of the above, reconsideration and withdrawal of the rejection of claims 1-16 under 35 U.S.C. §112, second paragraph and the rejection of claims 1-16 under 35 U.S.C. §101 is respectfully requested.

Applicants respectfully traverse the rejection of claims 1-21 under 35 U.S.C. §102(e) as being anticipated by BASANI. In this regard, BASANI discloses a content-management front-end that provides efficient controls for triggering distribution of digitized data content to selected groups of remote computer servers. More particularly, BASANI is submitted to disclose transport-layer protocols that interact with distribution controllers to automatically determine an optimized tree-like distribution sequence to group leaders, selected by network devices, at each remote site. Applicants submit that the asserted portions of BASANI in column 5, line 11 through column 6, line 47 and column 11, line 55 through column 12, line 53 disclose a content control manager issuing assignments to system components for creating or deleting remote server directories and files, and for distributing changed content from a staging server. BASANI further discloses an assignment message containing instructions for creating, moving, copying, removing, or modifying directories or file content on a remote server, including parameters required for any compression and encryption. The assignments disclosed by BASANI are

submitted to be dispatched according to a sort list of group leaders, based on factors such as nearness, processor speed, reliability, CPU usage, and according to content groupings.

Applicants respectfully submit that BASANI does not teach or suggest at least one special package added to a rule engine offering specialized functionality to the rule engine, as recited in Applicants' independent claim 22. Further, it is submitted that BASANI does not teach or suggest a rule injector that injects or removes the at least one specified rule to or from the rule engine, as recited in Applicants' independent claim 22. Further, it is submitted that BASANI does not teach or suggest a distributor that distributes the at least one specified rule to an intermediate network element comprising distribution of indications in the at least one specified rule to indicate whether at least part of the at least one specified rule is to be distributed and a distributor that distributes a signature embedded into a data packet to announce capabilities of the intermediate network element that the data packet traversed. Further, Applicants respectfully submit that BASANI does not disclose numerous other features of Applicants' independent claim 22.

In view of the above, Applicants respectfully submit that independent claim 22 is allowable over BASANI.

In addition, the method of independent claim 38 is submitted to be allowable for reasons similar to those noted above with respect to independent claim 22, in addition to reasons related to its own recitations.

Applicants respectfully submit that each of dependent claims 23-37 and 39-42 are allowable at least because they depend, directly or indirectly, from independent claims 22 and 38, respectively, which Applicants submit have been shown to be allowable. Each of dependent claims 23-37 and 39-42 are also submitted to recite further patentable subject matter. As such,

allowance of the dependent claims is deemed proper for at least the same reasons noted for the independent claims upon which they depend, in addition to reasons related to their own recitations.

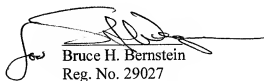
Accordingly, reconsideration and withdrawal of the 35 U.S.C. §102(e) rejection is respectfully requested.

At least in view of the herein contained amendments and remarks, Applicants respectfully request reconsideration and withdrawal of each of the outstanding objection and rejections, together with an indication of the allowability of all pending claims, in due course. Such action is respectfully requested and is believed to be appropriate and proper.

Should an extension of time be necessary, the Commissioner is hereby authorized to charge any additional fee to Deposit Account No. 19-0089.

Should the Examiner have any questions concerning this Response or the present application, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

Respectfully Submitted,
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